

**REMARKS**

Claims 1, 5-8, and 11 are pending in this application. Claim 1 is an independent claim. Claim 8 is an independent claim. Claims 5-7 depend from independent claim 1. Claim 11 depends from independent claim 8. Claim 1 is currently amended.

**Section 112**

On page 10 of Applicant's specification, lines 8-21, Applicant discloses a hanger apparatus including a helix 12 which includes an anterior coil 14, posterior coil 15 and a plurality of intermediate coils 17. Claims 1, 5-8, and 11 are consistent with Applicant's disclosure, in that claimed is a helix having coils. The drawings do not show one coil, they show a helix 12 composed of a plurality of coils, namely, anterior coil 14, posterior coil 15, and a plurality of intermediate coils 17. Claims 1, 5-8, and 11 set forth language that is entirely consistent with Applicant's specification, and the section 112 rejections set forth on page 2 and 3 of the 23 November 2005 Office Action are believed to be moot and should be withdrawn.

Serial No. 10/785,451

Art Unit 3632

Accordingly, it is respectfully submitted that claims 1, 5-7, 8, and 11 do not suffer from section 112 rejections.

Applicant acknowledges the allowable subject matter set forth in claims 8 and 11.

### **Section 103**

Claims 1, and 5-7 stand rejected under 35 USC § 103(a) as a group as being unpatentable over McIntire, U. S. Patent 5,383,259, in view of Sepetka, U. S. Patent 4,955,862. Applicant respectfully traverses this rejection. Claim 1 is an independent claim, and claims 5-7 depend from independent claim 1.

In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. *Stratoflex, Inc. v Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983); *Schenck v Nortron Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983). Further, a prior art reference must be considered in its

Serial No. 10/785,451

Art Unit 3632

entirety, i.e. as a whole, including portions that would lead away from the claimed invention. *W. L. Gore & Associates, Inc. v Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). "All words in a claim must be considered in judging patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 165 USPQ 494. 496 (CCPA 1970).

#### Independent Claim 1

Referring to the language of claim 1, a hanger apparatus is claimed including a helix having a first coil and a second coil. Engagement means depending from the first coil for receiving and holding a selected object is also specified. Further specified is at least one coil intermediate the first coil and the second coil, in which the coils are fabricated of a strand of material and have incrementally graduated diameters forming a frusto-conically tapered shape of the helix. The first coil is claimed as having a larger diameter than the second coil, and the coils define a hollow core through the helix.

From the language of claim 1 it can be seen that several specific elements are included in the claimed hanger assembly. First, a helix has a first coil and a second coil. Second, engagement means dependings from the first coil for receiving and holding a selected object is also specified. Third, there is at least one coil intermediate the first coil and the second coil. Fourth, the coils are fabricated of a strand of material and have incrementally graduated diameters forming a frusto-conically tapered shape of the helix. Fifth, the first coil has a larger diameter than the second coil. Sixth, the coils define a hollow core through the helix. Each of these six elements specifically describes a feature or structure of the invention.

Beginning on page 3 of the Office Action, the Examiner states that McIntire teaches a helix having coils, including first and second coils and at least one coil therebetween. The Examiner also states that the coils in McIntire form a frusto-conically tapered shape of the helix, which has a hollow core. The Examiner admits that McIntire fails to teach the coils of fabricated of a strand of material, but cites Sepetka for teaching coils made of a strand of material, concluding that it would have been

Serial No. 10/785,451

Art Unit 3632

obvious for one of ordinary skill in the art to have modified McIntire's coils with strand material as taught by Sepetka to increase flexible in the coils to provide convenience for adjusting the helix when inserting on an object. Applicant disagrees with the Examiner's section 103 rejection.

McIntire teaches a shock cord 43 threaded through a collet piece 41 in a circular collar 40 which is retained inside a wire bale 42 with a hook 44. It is not at all taught in McIntire that hook 44 actually depends from one of the coils of wire bale 42. Although McIntire teaches that collar 40 is retained inside wire bale 42 with hook 44, and also makes reference to wire bale and hook 42, 44, this is the extent of the discussion of the relationship of hook 44 with wire bale 42 and neither McIntire's drawings nor his written disclosure teach or suggest that hook 44 actually depends from one of the coils of wire bale 42. It is Applicant's contention that the teachings in McIntire fail to reasonably teach or suggest that hook 44 actually depends from one of the coils of wire bale 42, and that McIntire therefore fails to teach engagement means depending from said first coil for receiving and holding a

Serial No. 10/785,451

Art Unit 3632

selected object as claimed by Applicant in conjunction with the remaining structure features set forth in claim 1.

In rejecting claim 1, the Examiner asserts that McIntire teaches helix of coils having a hollow core. Applicant disagrees. In McIntire, circular collar 40 is retained inside wire bale 42. Because collar 40 is retained inside wire bale 42, wire bale 42 does not, and cannot, form a hollow core because what otherwise would be a hollow core is entirely occupied by collar 40. According to the use of the invention claimed in claim 1, the second coil to be inserted into an opening through a substrate and then the helix is rotated until the substrate is received between two of the coils of the helix. If the coils of Applicant's claimed helix did not define a hollow core, it may be unable to work for this intended purpose and could render Applicant's invention inoperable. In this regard, the provision of collar 40 retained inside wire bale 42 teaches directly away from Applicant's claimed invention, and renders McIntire incapable of teaching Applicant's claimed hollow core.

In sum, McIntire does not teach what the Examiner alleges McIntire teaches on page 3 of the present Office

Serial No. 10/785,451  
Art Unit 3632

Action. Accordingly, it is Applicant's contention that the Examiner's section 103 rejection of claims 1 and 5-7 as being obvious over McIntire in view of Sepetka cannot be supported by McIntire in view of Sepetka.

Although the Examiner concludes that it would have been obvious for one of ordinary skill in the art to have modified McIntire's coils with a strand of material as taught by Sepetka to increase flexible in the coils to provide convenience for adjusting the helix when inserting on an object, the Examiner has cited nothing in the prior art to support this conclusion and seems to be working from personal knowledge, in which case the Applicant respectfully requests an affidavit from the Examiner. Having cited no support for this aspect of the Examiner's rejection, Applicant respectfully asserts that the section 103 rejection cannot stand.

In order to modify the teachings of McIntire to modify his helix by constructing it from a strand of material as disclosed by Sepetka, there must be a motivation in either McIntire or Septetka to support this modification, or that would lead one of ordinary skill in the art to make such a modification. Although the Examiner asserts a modification

Serial No. 10/785,451

Art Unit 3632

of McIntire with Sepetka, there is no motivation in either reference to make the espoused modification. Even if such a modification could be made, McIntire does not teach a hollow core, and replacing the helix in McIntire with a helix fashioned of a strand of material would still leave collar 40 inside the helix therefore providing no provision of a hollow core as claimed by Applicant in claim 1. Accordingly, it is Applicant's contention that one cannot arrive at Applicant's claimed invention with the combined teachings of McIntire and Sepetka as espoused by the Examiner.

In view of the foregoing, claims 1 and 5-7 are believed to be in condition for allowance. Further, claims 5-7 are dependent upon a claim that is allowable according the argument set forth above and, therefore, each of them is allowable.

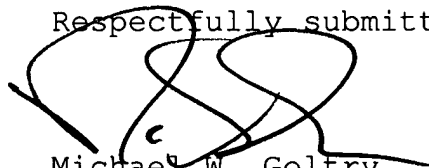
Applicant again acknowledges that allowable subject matter set forth in claims 8 and 11.



Serial No. 10/785,451  
Art Unit 3632

Examiner's thorough and thoughtful consideration of  
this application is sincerely appreciated.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael W. Goltry', written over the typed name.

Michael W. Goltry  
Attorney for Applicant  
Reg. No. 39,692  
**CN 45848**

22 Febraury 2006  
4000 North Central  
Suite 1220  
Phoenix, Arizona 85012  
(602) 252-7494